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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,808	07/14/2005	Erik Berglund	P19238-US1	9930
27045	7590	12/21/2010	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			KIM, TAE K	
			ART UNIT	PAPER NUMBER
			2492	
			NOTIFICATION DATE	DELIVERY MODE
			12/21/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/520,808	<b>Applicant(s)</b> BERGLUND ET AL.	
	<b>Examiner</b> TAE K. KIM	<b>Art Unit</b> 2492	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This is in response to the Applicant's response filed on October 31, 2008.

Claims 1 – 10 have been previously cancelled by the Applicant. Claims 11 and 16 have been amended. Claims 11 – 20, where Claims 11 and 16 are in independent form, are presented for examination.

The petition to reopen prosecution was granted on November 17, 2010.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 31, 2008 has been entered.

#### ***Response to Arguments***

Applicant's arguments filed October 31, 2008 have been fully considered but they are not persuasive. Applicant argued:

- a) Regarding Claims 11 and 16, Hose fails to disclose "at least one uniquely identifiable tangible second type tag, identifying a media access point in said physical area, the second type tag activation a media session when the first type tag is carried into the physical area within close proximity of the second type tag." (emphasis added by Applicant)

Examiner respectfully disagrees with applicant's assertions.

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1. With regards to a), the Applicant argues that Hose teaches away from the claimed limitations because it determines the location of a device using an LFE or an external source such as a GPS system [See Remarks, Pg. 5, 5<sup>th</sup> Para.]. However, LFE (Location Finding Equipment) can be based on the analysis of signals communicated between network equipment and the device's transceiver, e.g., cell/sector, microcell, angle of arrival, etc. [Col. 2, lines 46-55]. When a user requests certain services, such as locating a hotel, the system can retrieve the nearest hotel that satisfies the certain criteria of the user (information in cell phone) within proximity of the cell site equipment [Col 2, line 61 – Col. 3, line 2]. Therefore, the relevant location information for the user request comprises the position of the first type tag (user cell phone) relative to the position of the second type tag (local cell site equipment). Without more, the claims do not distinguish over the prior art of record.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 11 – 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

2. Regarding Claims 11 – 20, the claim limitation “communication means” and “at least one of said tangible first and second type tags has means for identifying combination of tangible first and second type tags” uses the phrase “means for” or “step for”, but it is modified by some structure, material, or acts recited in the claim. It is

unclear whether the recited structure, material, or acts are sufficient for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph, because the means can simply be data or software.

If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that the phrase “means for” or “step for” is clearly **not** modified by sufficient structure, material, or acts for performing the claimed function.

If applicant does **not** wish to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to amend the claim so that it will clearly not be a means (or step) plus function limitation (e.g., deleting the phrase “means for” or “step for”).

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 11 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 7,024,205 B1, invented by David Hose (hereinafter referenced as “Hose”).**

3. Regarding Claims 11 and 16, Hose, discloses a system, method, and apparatus [Abstract; Col. 4, Lines 40-43] for media distribution in a physical area [Col. 1, Lines 59-67] comprising of at least one uniquely identifiable tangible first type tag, which can be carried around said physical area by a visiting user [Col. 2, Lines 14-29; Col. 5, Lines 28-32; Col. 7, Lines 1-3, 22-26; Col. 8, Lines 56-62; subscriber information such as

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account numbers, credit card numbers, user preferences, subscriber identifier, service provider identifier, service type identifier, etc. can be transmitted with the service request through the mobile phone]. Hose further discloses that the system, method, and apparatus also includes at least one uniquely identifiable tangible second type tag, identifying a media access point in said physical area [Col. 2, Line 46 – Col. 3, Line 15; location of the wireless device is based on location finding equipment inputs and will determine the availability of certain services depending on the wireless device's location and output the selected service information via a mobile switching center; see also, Col. 4, Lines 56-64; the network is divided into a number of service areas or cells and each cell has site equipment for receiving RF signals from wireless phones], the second type tag activating a media session when the first type tag is carried into the physical area within close proximity of the second type tag [Col 2, line 61 – Col. 3, line 2; relevant location information for the user request comprises the position of the first type tag (user cell phone) relative to the position of the second type tag (local cell site equipment)], an administrative system [Fig. 3; Col. 5, Lines 10-12, 45-49, 56-66; Col. 6, Lines 12-16; platform gathers data regarding the location of the wireless device, the services available within that location, and the preferences of the user to provide a list of corresponding choices to the user-specified service], communication means [Fig. 1; Col. 2, Line 46 – Col. 3, Line 15; location of the wireless device will determine the availability of certain services and the output of the selected service information is provided via a mobile switching center and corresponding data network structure], and at least one of said tangible first and second type tags has means for identifying combinations of

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tangible first and second type tags brought into close proximity of each other and communicate information relating to these tangible tags to the administrative system [Figs. 1 and 3; Col. 5, Lines 10-12, 45-49, 56-66; Col. 6, Lines 12-16; platform gathers data regarding the location of the wireless device, the services available within that location, and the preferences of the user to provide a list of corresponding choices to the user-specified service]. Additionally, Hose discloses of an administrative system being arranged to respond to this information through distributing to communication means associated with either of these tangible tags media determined by the received information [Col. 6, Lines 45-53; the mobile switching center (MSC) transmits the service request to the intelligent network application, where the application responds and prompts the MSC to establish a communication channel between the phone and data server and this connection is used to provide the specified services].

4. Regarding Claims 12 and 17, Hose discloses all the limitations of Claims 11 and 16 as stated above. Hose further discloses the inclusion of an event manager associated with the administrative system, where computer-readable events are embedded in the information identifying the tangible tags brought into close proximity of each other and communicated to the administrative system (Col. 8, Lines 50-62; billing program that calculates fees based on usage, e.g., number of uses, duration of uses, type of uses, etc., service requests, or the location of the transaction along with subscriber identification, service provider identification, service type identification, etc. to generate appropriate billing record for the subscriber's use).

5. Regarding Claims 13 and 18, Hose discloses all the limitations of Claims 11 and 16 above. Hose further discloses that the administrative system is integrated in a communication means associated with a tangible first type tag (Col. 6, Lines 55-64; depending on subscriber's service request and preferences, the service provider may have a direct voice and/or data link with the data server or the MSC).

6. Regarding Claims 14 and 19, Hose discloses all the limitations of Claims 11 and 16 above. Hose further discloses that the tangible first type tag comprises of means for determining the identify of the user (Col. 2, Lines 14-29; Col. 5, Lines 28-32; Col. 7, Lines 1-3, 22-26; subscriber information such as account numbers, credit card numbers, user preferences, etc. can be stored in the phone and transmitted along with the service request).

7. Regarding Claims 15 and 20, Hose discloses all the limitations of Claims 11 and 16 above. Hose further discloses that the administrative system comprises of means for collecting and compiling statistics of a user session (Col. 6, Lines 34-40 – call start and stop signals for billing applications; Col. 8, Lines 52-61 – billing parameters include subscriber identifier, service provider identifier, service type identifier, etc.).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent 7,023,995 – system for providing secure location based services to a cellular device.

**Examiner's Note:** Examiner has cited particular figures, columns, line numbers, and/or paragraphs in the references applied to the claims above for the convenience of



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the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

### **Contacts**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae K. Kim, whose telephone number is (571) 270-1979. The examiner can normally be reached on Monday - Friday (10:00 AM - 8:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached on (571) 272-6776. The fax phone number for submitting all Official communications is (703) 872-9306. The fax phone number for submitting informal communications such as drafts, proposed amendments, etc., may be faxed directly to the examiner at (571) 270-2979.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

/Tae K. Kim/

Tae K. Kim  
Examiner, Art Unit 2492

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December 3, 2010